

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

THE UNITED STATES OF AMERICA,)	
)	
)	
Plaintiff,)	Civil Action No. 05-10112 JLT
)	
v.)	
)	
THE COMMONWEALTH OF)	
MASSACHUSETTS, <i>et al.</i>)	
)	
)	
Defendants.)	
)	

NOTICE OF PUBLIC RECORD

Plaintiff, the United States of America, by and through undersigned counsel, files this Notice to inform the Court of a public record pertinent to resolution of the pending cross-motions for summary judgment as to Defendants' counterclaim in this action. See Docket Entry Nos. 23, 34, 39.

In accordance with Executive Order ("E.O.") 12866, the Office of Information and Regulatory Affairs ("OIRA"), a component of the White House Executive Office of Management and Budget ("OMB"), publicly maintains a list of all rules undergoing E.O. 12866 regulatory review, updated daily.¹ These public records are available on the Internet at <http://www.reginfo.gov/public/do/eoPackageMain>, where rules under review are listed by agency. As reflected on that website, the draft final rule to implement the alcohol testing requirements of Public Law 105-383, Title II, § 304(d)(1), codified at 46 U.S.C. § 2303(a), is entitled "Marine Casualties and Investigations; Chemical Testing Following Serious Marine

¹ The nature of E.O. 12866 review was described in the Declaration of Stefan Venckus filed on July 26, 2005, as an attachment to the United States' Memorandum in Opposition to Defendants' Cross-Motions for Summary Judgment as to Defendants' Counterclaim. See Docket Entry No. 48.

Incidents," and was received by OMB from the Department of Homeland Security for E.O. 12866 review on September 30, 2005. A printout of that website as of this date is attached to this Notice.

This public record did not exist until on or about September 30, 2005, and, therefore, could not have been discovered in time to be included in the United States' previous filings regarding Defendants' counterclaim.

DATED this 7th day of October, 2005.

Respectfully Submitted,

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Office of Information and Regulatory Affairs (OIRA)

Executive Order Submissions Under Review

October 07, 2005

Department of Homeland Security

AGENCY: DHS-BICE**RIN:** [1653-AA47](#)**TITLE:** Electronic Signature and Storage of Form I-9, Employment Eligibility Verification**STAGE:** Interim Final Rule**ECONOMICALLY SIGNIFICANT:** No**RECEIVED DATE:** 10/03/2005**LEGAL DEADLINE:** None**AGENCY:** DHS-OS**RIN:** [1601-AA27](#)**TITLE:** Department of Homeland Security Labor Relations Board**STAGE:** Interim Final Rule**ECONOMICALLY SIGNIFICANT:** No**RECEIVED DATE:** 08/05/2005**LEGAL DEADLINE:** None**AGENCY:** DHS-USCG**RIN:** [1625-AA93](#)**TITLE:** Notification of Arrival in U.S. Ports; Certain Dangerous Cargoes; Electronic Submission (USCG-2004-19963)**STAGE:** Interim Final Rule**ECONOMICALLY SIGNIFICANT:** No**RECEIVED DATE:** 09/28/2005**LEGAL DEADLINE:** None**AGENCY:** DHS-USCG**RIN:** [1625-AA04](#)**TITLE:** Reporting Marine Casualties (USCG-2000-6927)**STAGE:** Final Rule**ECONOMICALLY SIGNIFICANT:** No**RECEIVED DATE:** 09/30/2005**LEGAL DEADLINE:** None**AGENCY:** DHS-USCG**RIN:** [1625-AA27](#)**TITLE:** Marine Casualties and Investigations; Chemical Testing Following Serious Marine Incidents (USCG-2001-8773)**STAGE:** Final Rule**ECONOMICALLY SIGNIFICANT:** No**RECEIVED DATE:** 09/30/2005**LEGAL DEADLINE:** None**AGENCY:** DHS-USCG**RIN:** [1625-AA85](#)**TITLE:** Validation of Merchant Mariners' Vital Information and Issuance of Coast Guard Merchant Mariner's Licenses and Certific Registry (USCG-2004-17455)

STAGE: Final Rule

RECEIVED DATE: 09/30/2005

ECONOMICALLY SIGNIFICANT: No

LEGAL DEADLINE: None

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